

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by the court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of entering the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

JAMES BURNSIDE AND MARIA BURNSIDE, HW

DEFENDANTS

PETERBILT MOTORS COMPANY; ARROW TANK AND ENGINEERING; REGO PRODUCTS; FEDERAL TANK TESTING INC

(b) County of Residence of First Listed Plaintiff Luzerne
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Denton County
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) Attorneys (Firm Name, Address, and Telephone Number)

Swartz Culleton - Brandon A. Swartz
547 E. Washington Ave
Newtown, PA 18940
215-510-6553

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF |
|---|-------------------------------------|-------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Citizen of Another State | <input type="checkbox"/> | <input type="checkbox"/> |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> | <input type="checkbox"/> |
| Incorporated or Principal Place of Business In This State | <input type="checkbox"/> | <input type="checkbox"/> |
| Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Foreign Nation | <input type="checkbox"/> | <input type="checkbox"/> |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input checked="" type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 USC 1332

Brief description of cause:

Products Liability

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

SEP 20 2017

DATE

09/15/2017

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IF

JUDGE

MAG. JUDGE



UNITED STATES DISTRICT COURT

Submit by Email

Print Form

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 85 Hospital Street, Pittston, PA 18640Address of Defendant: 1700 Woodbrook Street, Denton, TX 76205Place of Accident, Incident or Transaction: Avoca, PA

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____

Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes ☐No ☒

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes ☐No ☒

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes ☐No ☒

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes ☐No ☒CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts2. ☐ FELA3. ☐ Jones Act-Personal Injury4. ☐ Antitrust5. ☐ Patent6. ☐ Labor-Management Relations7. ☐ Civil Rights8. ☐ Habeas Corpus9. ☐ Securities Act(s) Cases10. ☐ Social Security Review Cases11. ☐ All other Federal Question Cases

(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts2. ☐ Airplane Personal Injury3. ☐ Assault, Defamation4. ☐ Marine Personal Injury5. ☐ Motor Vehicle Personal Injury6. ☐ Other Personal Injury (Please specify)7. ☒ Products Liability8. ☐ Products Liability — Asbestos9. ☒ All other Diversity Cases

(Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, BRANDON A. SWARTZ

counsel of record do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: 09/15/2017

Attorney-at-Law

78344

Attorney I.D.#

BRANDON A SWARTZ

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 09/15/2017

Attorney-at-Law

78344

Attorney I.D.#

CIV. 609 (6/08)

SEP 20 2017

Submit by Email

Print Form

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

JAMES BURNSIDE AND
MARIA BURNSIDE, H/W

v.

PETERBILT MOTORS COMPANY, ET AL

CIVIL ACTION

17 4216

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ☐
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ☐
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ☐
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ☐
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ☐
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ☒

09/15/2017

Brandon A. Swartz

Plaintiffs, James Burnside and Maria Bt

Date

Attorney-at-law

Attorney for

215-550-6553

215-550-6557

bswartz@swartzculleton.com

Telephone

FAX Number

E-Mail Address

(Civ. 660) 10/02

SEP 20 2017

SWARTZ CULLETON PC

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Esquire

Brandon A. Swartz
Esquire

Todd M. Felzer
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Chairperson of the Workers
Compensation Department

Bryan M. Ferris
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Joseph P. Guzzardo
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One Commerce Square
2005 Market Street, 18th Floor
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The Sovereign Building, Suite 19
609 W. Hamilton Street
Allentown, PA 18101



September 15, 2017

United States District Court
Eastern District of Pennsylvania
Office of the Clerk of Court
601 Market Street, Room 2609
Philadelphia, PA 19106-1797

**Re: James Burnside and Maria Burnside v. Peterbilt
Motors Company and Arrow Tank and
Engineering Company and RegO Products and
Federal Tank Testing Inc.**

Dear Sir/Madam:

Enclosed for filing please find an original, a copy and a pdf on CD
of plaintiff's Complaint. Please file the original Complaint and time
stamp the copy and return it in the self-addressed stamped envelope
enclosed herein.

Thank you for your time in this matter.

Very truly yours,

SWARTZ CULLETON

Ethan R. Feldman

/erf
Enclosures

SEP 20 2017

place of business located at 8950 Evergreen Boulevard, Coon Rapids, Minnesota 55433. Defendant is a citizen of Minnesota for purposes of diversity jurisdiction.

4. Defendant RegO Products (“Defendant RegO”), was and is now a business entity, believed to be a subsidiary of Engineered Controls International, LLC, duly organized and existing under the laws of the State of Delaware, with a corporate headquarters and principal place of business located at 100 RegO Drive, Elon, North Carolina, 27244. Defendant is a citizen of North Carolina for purposes of diversity jurisdiction.

5. Defendant, Federal Tank Testing Incorporated (“Defendant Federal Tank”), was and is now a business entity, believed to be a business corporation, duly organized and existing under the laws of the State of Texas, with corporate headquarters and principal place of business located at 5504 Everett Avenue, Amarillo, Texas 79106. Defendant is a citizen of Texas for purposes of diversity jurisdiction.

II. JURISDICTION AND VENUE

6. Jurisdiction is conferred upon this Court by virtue of the parties’ diversity of citizenship pursuant to 28 U.S.C. § 1332.

7. The amount in controversy in this action is in excess of Seventy-Five thousand (\$75,000.00) dollars, exclusive of costs and fees.

8. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because one or more of the Defendants regularly and continuously conducts business within the District.

III. STATEMENT OF CLAIMS

9. At all times relevant hereto, the Defendants acted by and through their respective agents, servants, employees, workmen and/or other representatives, who were, in turn, acting within the course and scope of their employment, agency and/or service for the same.

10. At all times relevant hereto, Plaintiff James Burnside was acting within the course and scope of his employment with Modern Gas and Oil, located at 2190 Glendale Road, Avoca, PA 18641.

11. Upon information and belief, Defendant Peterbilt designed, marketed, sold, supplied and/or distributed the subject product, the bobtail truck and its component parts which caught fire on July 21, 2017, on the premises known as Modern Gas and Oil located at 2190 Glendale Road, Avoca, PA 18641.

12. Upon information and belief, Defendant Arrow Tank designed, marketed, sold, supplied and/or distributed the subject product, the propane tank located atop the aforementioned bobtail truck and its component parts which caught fire on July 21, 2017, on the premises known as Modern Gas and Oil located at 2190 Glendale Road, Avoca, PA 18641.

13. Upon information and belief, Defendant RegO, marketed, sold, supplied and/or distributed the subject product, the safety valve, located in the propane tank atop the bobtail truck and its component parts which caught fire on July 21, 2017, on the premises known as Modern Gas and Oil located at 2190 Glendale Road, Avoca, PA 18641.

14. Upon information and belief, Defendant Federal Tank, inspected, managed, maintained and/or repaired the bobtail truck and its component parts which caught fire on July 21, 2017, on the premises known as Modern Gas and Oil located at 2190 Glendale Road, Avoca, PA 18641.

15. On or about July 21, 2017, Plaintiff, James Burnside, while acting within the course and scope of his employment, was performing work on the aforementioned bobtail truck, when, suddenly and without warning, the bobtail truck began leaking propane gas, which subsequently caught fire, causing the Plaintiff to suffer severe and permanent bodily injuries

and losses including, but not limited to, severe burns to his face, hands, and arms, as well as aches, pains, mental anxiety and anguish, and a severe shock to his entire nervous system.

COUNT I
JAMES BURNSIDE v. PETERBILT MOTORS COMPANY
PRODUCTS LIABILITY – STRICT LIABILITY – NEGLIGENCE – BREACH OF
WARRANTY

16. Plaintiff hereby incorporates by reference paragraphs one (1) through fifteen (15) of the within Complaint as though the same were fully set forth at length herein.

17. Defendant Peterbilt placed into the stream of commerce a defective product, as identified above, that violated the standards created in *Tincher v. Omega Flex*, 104 A.3d, 399 (Pa. 2014). More specifically, the Defendant placed into the stream of commerce a defective product wherein (a) the danger was unknowable and unacceptable to the average or ordinary consumer and/or (b) a reasonable person would conclude that the probability and seriousness of harm caused by the Defendant's defective product outweighs the burden or costs of taking precautions.

18. The accident described herein was caused solely and exclusively by the defective design and manufacture of the aforesaid bobtail truck and its component parts, and the negligence of the Defendant Peterbilt, and was due in no manner by negligence on the part of the Plaintiff, James Burnside.

19. At all times relevant hereto, Defendant's aforesaid bobtail truck and its component parts were defective and unsafe for consumer use.

20. At all times relevant hereto, there were latent defects in the Defendant's aforesaid bobtail truck and its component parts such that the product's defective condition was unknown to the consumer, therefore rendering the product unacceptable for consumer use.

21. The Defendant was negligent in its failure to remedy the defective condition of the aforesaid bobtail truck and its component parts by failing to take adequate precaution in its design and/or manufacture.

22. The Defendant's negligence caused Plaintiff James Burnside's injuries.

23. The Defendant was negligent in designing, manufacturing, assembling, marketing, installing, and distributing the defectively designed and manufactured bobtail truck and its component parts, which had no or defective instructions and/or warnings for use and consumer safety features.

24. The Defendant's negligence caused Plaintiff James Burnside's injuries.

25. The Defendant distributed and sold the aforesaid bobtail truck and its component parts in a defective condition in violation of the Restatement (Second) of Torts §402(A).

26. The defects in the Defendant's aforementioned bobtail truck and its component parts caused the Plaintiff's injuries.

27. Defendant is strictly liable to Plaintiff as a result of the defective condition of Defendant's product.

28. The Defendant designed, manufactured, distributed and sold the aforesaid bobtail truck and its component parts with defective warnings and instructions in violation of the Restatement (Second) of Torts §402(B).

29. The defective warnings and/or instructions rendered the product unsafe and unfit for consumer use.

30. The defective warnings and instructions caused the Plaintiff's injuries.

31. As a result of the aforesaid negligence and strict liability of Defendant, Plaintiff James Burnside has in the past and will in the future undergo severe pain and suffering as a result

of which he has been in the past and will in the future be unable to engage in his usual activities, all to his great detriment and loss.

32. As a result of the aforesaid negligence and strict liability of Defendant, Plaintiff James Burnside has been and will be obliged to receive and undergo medical attention and care and to expend various sums for the treatment of his injuries and incur such expenditures for an indefinite time in the future.

33. As a further result of the aforesaid accident, Plaintiff James Burnside may in the future suffer a loss of his earnings and/or earning power, and he may incur such loss for an indefinite period in the future.

34. Further, by reason of the aforesaid occurrence, Plaintiff has and/or may hereinafter incur other financial expenses all in an effort to treat and cure himself of the injuries sustained in the aforesaid accident.

35. As a further result of the aforesaid negligence and strict liability of Defendant, Plaintiff James Burnside has or may have suffered injuries resulting in the serious and/or permanent loss of use of a bodily function, dismemberment, and/or scarring, which may be in full or part cosmetic disfigurements which are or may be permanent, irreparable and severe.

36. As a further result of the aforesaid accident, Plaintiff James Burnside has suffered a loss of the enjoyment of his usual duties, avocations, life's pleasures and activities, and the shortening of his life expectancy, all to his great detriment and loss.

37. As a further result of the aforesaid accident, Plaintiff James Burnside has suffered great and unrelenting physical pain, suffering and mental anguish, all of which may continue in the future.

38. In addition, the Defendant violated its implied and express warranties to Plaintiff by designing, manufacturing, marketing, distributing and selling a defective product containing defective warnings and instructions.

39. Defendant's breach of its implied and express warranties caused the Plaintiff's injuries.

WHEREFORE, Plaintiff, James Burnside, demands judgment in his favor and against Defendant, Peterbilt Motors Company, in an amount in excess of \$150,000.00, together with costs of suit, interest and reasonable attorneys' fees, as well as any such other relief as the Court deems adequate, just and proper.

COUNT II
JAMES BURNSIDE v. ARROW TANK AND ENGINEERING COMPANY
PRODUCTS LIABILITY – STRICT LIABILITY – NEGLIGENCE – BREACH OF
WARRANTY

40. Plaintiff hereby incorporates by reference paragraphs one (1) through thirty-nine (39) of the within Complaint as though the same were fully set forth at length herein.

41. Defendant Arrow Tank placed into the stream of commerce a defective product, as identified above, that violated the standards created in *Tincher v. Omega Flex*, 104 A.3d, 399 (Pa. 2014). More specifically, the Defendant placed into the stream of commerce a defective product wherein (a) the danger was unknowable and unacceptable to the average or ordinary consumer and/or (b) a reasonable person would conclude that the probability and seriousness of harm caused by the Defendant's defective product outweighs the burden or costs of taking precautions.

42. The accident described herein was caused solely and exclusively by the defective design and manufacture of the propane tank, located atop the aforesaid bobtail truck, and its

component parts, and the negligence of the Defendant Arrow Tank, and was due in no manner by negligence on the part of the Plaintiff, James Burnside.

43. At all times relevant hereto, Defendant's propane tank, located atop the aforesaid bobtail truck, and its component parts were defective and unsafe for consumer use.

44. At all times relevant hereto, there were latent defects in the Defendant's propane tank, located atop the aforesaid bobtail truck, and its component parts such that the product's defective condition was unknown to the consumer, therefore rendering the product unacceptable for consumer use.

45. The Defendant was negligent in its failure to remedy the defective condition of the propane tank, located atop aforesaid bobtail truck, and its component parts by failing to take adequate precaution in its design and/or manufacture.

46. The Defendant's negligence caused Plaintiff James Burnside's injuries.

47. The Defendant was negligent in designing, manufacturing, assembling, marketing, installing, and distributing the defectively designed and manufactured propane tank, located atop the aforesaid bobtail truck, and its component parts, which had no or defective instructions and/or warnings for use and consumer safety features.

48. The Defendant's negligence caused Plaintiff James Burnside's injuries.

49. The Defendant distributed and sold the propane tank, located atop the aforesaid bobtail truck, and its component parts in a defective condition in violation of the Restatement (Second) of Torts §402(A).

50. The defects in the Defendant's propane tank, located atop the aforementioned bobtail truck, and its component parts caused the Plaintiff's injuries.

51. Defendant is strictly liable to Plaintiff as a result of defective condition of Defendant's product.

52. The Defendant designing, manufacturing, assembling, marketing, installing, and distributing the propane tank, located atop aforesaid bobtail truck, and its component parts with defective warnings and instructions in violation of the Restatement (Second) of Torts §402(B).

53. The defective warnings and/or instructions rendered the product unsafe and unfit for consumer use.

54. The defective warnings and instructions caused the Plaintiff's injuries.

55. As a result of the aforesaid negligence and strict liability of Defendant, Plaintiff James Burnside has in the past and will in the future undergo severe pain and suffering as a result of which he has been in the past and will in the future be unable to engage in his usual activities, all to his great detriment and loss.

56. As a result of the aforesaid negligence and strict liability of Defendant, Plaintiff James Burnside has been and will be obliged to receive and undergo medical attention and care and to expend various sums for the treatment of his injuries and incur such expenditures for an indefinite time in the future.

57. As a further result of the aforesaid accident, Plaintiff James Burnside may in the future suffer a loss of his earnings and/or earning power, and he may incur such loss for an indefinite period in the future.

58. Further, by reason of the aforesaid occurrence, Plaintiff has and/or may hereinafter incur other financial expenses all in an effort to treat and cure himself of the injuries sustained in the aforesaid accident.

59. As a further result of the aforesaid negligence and strict liability of Defendant, Plaintiff James Burnside has or may have suffered injuries resulting in the serious and/or permanent loss of use of a bodily function, dismemberment, and/or scarring, which may be in full or part cosmetic disfigurements which are or may be permanent, irreparable and severe.

60. As a further result of the aforesaid accident, Plaintiff James Burnside has suffered a loss of the enjoyment of his usual duties, avocations, life's pleasures and activities, and the shortening of his life expectancy, all to his great detriment and loss.

61. As a further result of the aforesaid accident, Plaintiff James Burnside has suffered great and unremitting physical pain, suffering and mental anguish, all of which may continue in the future.

62. In addition, the Defendant violated its implied and express warranties to Plaintiff by designing, manufacturing, marketing, distributing and selling a defective product containing defective warnings and instructions.

63. Defendant's breach of its implied and express warranties caused the Plaintiff's injuries.

WHEREFORE, Plaintiff, James Burnside, demands judgment in his favor and against Defendant, Arrow Tank and Engineering Company, in an amount in excess of \$150,000.00, together with costs of suit, interest and reasonable attorneys' fees, as well as any such other relief as the Court deems adequate, just and proper.

COUNT III
JAMES BURNSIDE v. REGO PRODUCTS
PRODUCTS LIABILITY – STRICT LIABILITY – NEGLIGENCE – BREACH OF
WARRANTY

64. Plaintiff hereby incorporates by reference paragraphs one (1) through sixty-three (63) of the within Complaint as though the same were fully set forth at length herein.

65. Defendant RegO placed into the stream of commerce a defective product, as identified above, that violated the standards created in *Tincher v. Omega Flex*, 104 A.3d, 399 (Pa. 2014). More specifically, the Defendant placed into the stream of commerce a defective product wherein (a) the danger was unknowable and unacceptable to the average or ordinary consumer and/or (b) a reasonable person would conclude that the probability and seriousness of harm caused by the Defendant's defective product outweighs the burden or costs of taking precautions.

66. The accident described herein was caused solely and exclusively by the defective design and manufacture of the safety/shutoff valve, located in the propane tank atop the aforesaid bobtail truck, and its component parts, and the negligence of the Defendant RegO Products, and was due in no manner by negligence on the part of the Plaintiff, James Burnside.

67. At all times relevant hereto, Defendant's safety/shutoff valve, located in the propane tank atop the aforesaid bobtail truck, and its component parts were defective and unsafe for consumer use.

68. At all times relevant hereto, there were latent defects in the Defendant's safety/shutoff valve, located in the propane tank atop the aforesaid bobtail truck, and its component parts such that the product's defective condition was unknown to the consumer, therefore rendering the product unacceptable for consumer use.

69. The Defendant was negligent in its failure to remedy the defective condition of the safety/shutoff valve, located in the propane tank atop aforesaid bobtail truck, and its component parts by failing to take adequate precaution in its design and/or manufacture.

70. The Defendant's negligence caused Plaintiff James Burnside's injuries.

71. The Defendant was negligent in designing, manufacturing, assembling, marketing, installing, and distributing the defectively designed and manufactured safety/shutoff valve, located in the propane tank atop the aforesaid bobtail truck, and its component parts, which had no or defective instructions and/or warnings for use and consumer safety features.

72. The Defendant's negligence caused Plaintiff James Burnside's injuries.

73. The Defendant distributed and sold the safety/shutoff valve, located in the propane tank atop the aforesaid bobtail truck, and its component parts in a defective condition in violation of the Restatement (Second) of Torts §402(A).

74. The defects in the Defendant's safety/shutoff valve, located in the propane tank atop the aforementioned bobtail truck, and its component parts caused the Plaintiff's injuries.

75. Defendant is strictly liable to Plaintiff as a result of the defective condition of Defendant's product.

76. The Defendant designed, manufactured, assembled, marketed, installed, and distributed the safety/shutoff valve, located in the propane tank atop aforesaid bobtail truck, and its component parts with defective warnings and instructions in violation of the Restatement (Second) of Torts §402(B).

77. The defective warnings and/or instructions rendered the product unsafe and unfit for consumer use.

78. The defective warnings and instructions caused the Plaintiff's injuries.

79. As a result of the aforesaid negligence and strict liability of Defendant, Plaintiff James Burnside has in the past and will in the future undergo severe pain and suffering as a result of which he has been in the past and will in the future be unable to engage in his usual activities, all to his great detriment and loss.

80. As a result of the aforesaid negligence and strict liability of Defendant, Plaintiff James Burnside has been and will be obliged to receive and undergo medical attention and care and to expend various sums for the treatment of his injuries and incur such expenditures for an indefinite time in the future.

81. As a further result of the aforesaid accident, Plaintiff James Burnside may in the future suffer a loss of his earnings and/or earning power, and he may incur such loss for an indefinite period in the future.

82. Further, by reason of the aforesaid occurrence, Plaintiff has and/or may hereinafter incur other financial expenses all in an effort to treat and cure himself of the injuries sustained in the aforesaid accident.

83. As a further result of the aforesaid negligence and strict liability of Defendant, Plaintiff James Burnside has or may have suffered injuries resulting in the serious and/or permanent loss of use of a bodily function, dismemberment, and/or scarring, which may be in full or part cosmetic disfigurements which are or may be permanent, irreparable and severe.

84. As a further result of the aforesaid accident, Plaintiff James Burnside has suffered a loss of the enjoyment of his usual duties, avocations, life's pleasures and activities, and the shortening of his life expectancy, all to his great detriment and loss.

85. As a further result of the aforesaid accident, Plaintiff James Burnside has suffered great and unremitting physical pain, suffering and mental anguish, all of which may continue in the future.

86. In addition, the Defendant violated its implied and express warranties to Plaintiff by designing, manufacturing, marketing, distributing and selling a defective product containing defective warnings and instructions.

87. Defendant's breach of its implied and express warranties caused the Plaintiff's injuries.

WHEREFORE, Plaintiff, James Burnside, demands judgment in his favor and against Defendant, RegO Products, in an amount in excess of \$150,000.00, together with costs of suit, interest and reasonable attorneys' fees, as well as any such other relief as the Court deems adequate, just and proper.

COUNT IV
JAMES BURNSIDE v. FEDERAL TANK TESTING, INC.
PRODUCTS LIABILITY – STRICT LIABILITY – NEGLIGENCE – BREACH OF
WARRANTY

88. Plaintiff hereby incorporates by reference paragraphs one (1) through eighty-seven (87) of the within Complaint as though the same were fully set forth at length herein.

89. Defendant Federal Tank placed into the stream of commerce a defective product that violated the standards created in *Tincher v. Omega Flex*, 104 A.3d, 399 (Pa. 2014). More specifically, the Defendant placed into the stream of commerce a defective product wherein (a) the danger was unknowable and unacceptable to the average or ordinary consumer and/or (b) a reasonable person would conclude that the probability and seriousness of harm caused by the Defendant's defective product outweighs the burden or costs of taking precautions.

90. The accident described herein was caused solely and exclusively by the defective inspection, management, maintenance and/or repair of the aforesaid bobtail truck and its component parts, and the negligence of the Defendant Federal Tank, and was due in no manner by negligence on the part of the Plaintiff, James Burnside.

91. At all times relevant hereto, Defendant's aforesaid inspection, management, maintenance and/or repair of the aforesaid bobtail truck and its component parts were inadequate and unsafe for consumer use.

92. At all times relevant hereto, there were latent defects in the aforesaid bobtail truck and its component parts such that the product's defective condition was unknown to the consumer, therefore rendering the product unacceptable for consumer use.

93. The Defendant was negligent in its failure to remedy the defective condition of the aforesaid bobtail truck and its component parts by failing to take adequate precaution in its inspection, management, maintenance and/or repair.

94. The Defendant's negligence caused Plaintiff James Burnside's injuries.

95. The Defendant was negligent in inspecting, managing, maintaining and/or repairing the defectively designed and manufactured bobtail truck and its component parts, which had no or defective instructions and/or warnings for use and consumer safety features.

96. The Defendant's negligence caused Plaintiff James Burnside's injuries.

97. The Defendant's inspection, management, maintenance and/or repair the aforesaid bobtail truck and its component parts allowed the aforesaid bobtail truck to exist in a defective condition in violation of the Restatement (Second) of Torts §402(A).

98. The defects in the Defendant's inspection, management, maintenance and/or repair of the aforementioned bobtail truck and its component parts caused the Plaintiff's injuries.

99. Defendant is strictly liable to Plaintiff as a result of the defective condition of the aforesaid bobtail truck because of Defendant's inspection, management, maintenance and/or repair.

100. The Defendant inspected, managed, maintained and/or repaired the aforesaid bobtail truck and its component parts, and provided defective warnings and instructions in violation of the Restatement (Second) of Torts §402(B).

101. The defective warnings and/or instructions rendered the product unsafe and unfit for consumer use.

102. The defective warnings and instructions caused the Plaintiff's injuries.

103. As a result of the aforesaid negligence and strict liability of Defendant, Plaintiff James Burnside has in the past and will in the future undergo severe pain and suffering as a result of which he has been in the past and will in the future be unable to engage in his usual activities, all to his great detriment and loss.

104. As a result of the aforesaid negligence and strict liability of Defendant, Plaintiff James Burnside has been and will be obliged to receive and undergo medical attention and care and to expend various sums for the treatment of his injuries and incur such expenditures for an indefinite time in the future.

105. As a further result of the aforesaid accident, Plaintiff James Burnside may in the future suffer a loss of his earnings and/or earning power, and he may incur such loss for an indefinite period in the future.

106. Further, by reason of the aforesaid occurrence, Plaintiff has and/or may hereinafter incur other financial expenses all in an effort to treat and cure himself of the injuries sustained in the aforesaid accident.

107. As a further result of the aforesaid negligence and strict liability of Defendant, Plaintiff James Burnside has or may have suffered injuries resulting in the serious and/or permanent loss of use of a bodily function, dismemberment, and/or scarring, which may be in full or part cosmetic disfigurements which are or may be permanent, irreparable and severe.

108. As a further result of the aforesaid accident, Plaintiff James Burnside has suffered a loss of the enjoyment of his usual duties, avocations, life's pleasures and activities, and the shortening of his life expectancy, all to his great detriment and loss.

109. As a further result of the aforesaid accident, Plaintiff James Burnside has suffered great and unrelenting physical pain, suffering and mental anguish, all of which may continue in the future.

110. In addition, the Defendant violated its implied and express warranties to Plaintiff by inspecting, managing, maintaining and/or repairing a defective product containing defective warnings and instructions.

111. Defendant's breach of its implied and express warranties caused the Plaintiff's injuries.

WHEREFORE, Plaintiff, James Burnside, demands judgment in his favor and against Defendant, Federal Tank Testing Incorporated, in an amount in excess of \$150,000.00, together with costs of suit, interest and reasonable attorneys' fees, as well as any such other relief as the Court deems adequate, just and proper.

COUNT V
MARIA BURNSIDE v. ALL DEFENDANTS
LOSS OF CONSORTIUM

112. Plaintiff hereby incorporates by reference paragraphs one (1) through one-hundred eleven (111) of the within Complaint as though the same were fully set forth at length herein.

113. As a further result of the incident described herein, Plaintiff, Maria Burnside, has suffered the loss of earnings, society, consortium and services of her husband, Plaintiff James Burnside, to which she is legally entitled.

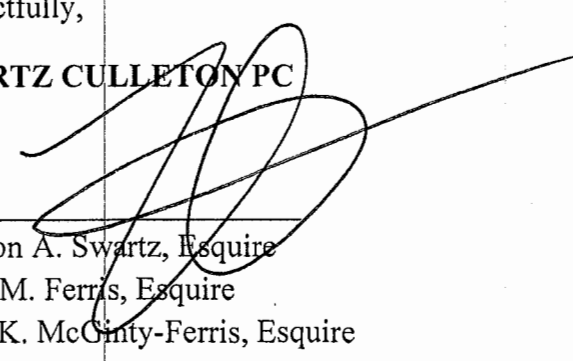
and strict liability, and she may be obliged to continue to expend such sum or incur such expenditures for an indefinite period of time.

WHEREFORE, Plaintiff, Maria Burnside, demands judgment in her favor and against all Defendants in an amount in excess of \$150,000.00, together with costs of suit, interest and reasonable attorneys' fees, as well as any such other relief as the Court deems adequate, just and proper.

Respectfully,

SWARTZ CULLETON PC

By:



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Date: September 8, 2017